

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

RICHARD CHAVEZ,

Plaintiff,

v.

CITY OF ALBUQUERQUE

Defendant.

COMPLAINT FOR WRONGFUL TERMINATION AND DISCRIMINATION
PURSUANT TO THE FAMILY AND MEDICAL LEAVE ACT
29 U.S.C. § 2601 ET. SEQ.

General Allegations:

1. Plaintiff, Richard Chavez ("Chavez"), is a resident of Valencia County, New Mexico.
2. Defendant, City of Albuquerque ("City"), is a government entity is a political subdivision within the County of Bernalillo and the State of New Mexico.
3. Jurisdiction and venue is proper in that the events giving rise to this complaint occurred in Bernalillo County, New Mexico, and the City of Albuquerque is an employer subject to the Family and Medical Leave Act 29 U.S.C. §2601 et. seq. ("FMLA").
4. On or about June or July 2008, Plaintiff's partner had a miscarriage and later became pregnant again. She began experiencing complications with her pregnancy, and the couple's first child. Plaintiff had to care for his wife and subsequently advised his supervisor of the complications. The City was aware of the health problems with the first pregnancy ending with the miscarriage and the new pregnancy, because Chavez advised his supervisor.

5. On or about October 10, 2008, Plaintiff applied for family and medical leave to care for his wife who was experiencing pregnancy complications pursuant to the act.

6. Plaintiff's application was approved on or about October 10, 2008 and effective September 30, 2008 through March 1, 2009 pursuant to 29 U.S.C. 2601 et. seq. See attached Exhibit "A".

7. The City did not explain or provide Chavez with his responsibilities under the FMLA until October 27, 2008.

8. Plaintiff was the subject of disciplinary actions during the period between July 2008 and November 3, 2008, during all such actions his supervisors and employer were aware of the problems that he and the mother of his child were having with the pregnancy of his first child.

9. On November 6 or 7, 2008, the City wrongfully terminated Richard Chavez.

10. On or about July 2008, Chane Washington ("Washington") a co-employee of Chavez and a upon information and belief a person related to Tony Baron came to work in the Parks Department, and Washington wanted the schedule occupied by Chavez.

11. Chavez refused to give up his schedule.

12. Despite Chavez obvious FMLA related problems, the City wrongfully pursued a course to remove Chavez from the Department.

13. Despite that the predetermination hearings were done without adhering to the FMLA, charges made under the predetermination hearings were not made timely against Chavez.

14. The City's action is retaliatory in nature and improper under the FMLA.

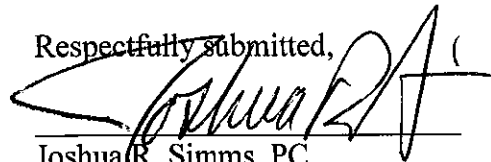
15. Chavez has been harmed by the City's action by the loss of his job and income from his job. Further he has had problems with depression and has had further problems related to the loss of his job since November 2008.

16. Chavez has been required to retain an attorney to pursue the matter.

WHEREFORE Plaintiff prays the Court enter a judgment as follows:

- a. For compensatory damages,
- b. For reinstatement of his employment with back pay and an noted and regular increases which may be due;
- c. For costs and attorney fees; and
- d. For such other relief as the Court deems just and proper.

Respectfully submitted,



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